

Gossweiler

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1499

March 19, 1963

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1499

March 19, 1963

1. APPELLATE DECISIONS - HUDSON-BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION v. UNION CITY AND CAPUTO'S LIQUOR CORP.

Hudson-Bergen County Retail )  
Liquor Stores Association, )

Appellant, )

v. )

Board of Commissioners of the )  
City of Union City, and )  
Caputo's Liquor Corp., )

Respondents. )

ON APPEAL

CONCLUSIONS  
AND ORDER

-----)  
Samuel J. Davidson, Esq., Attorney for Appellant.

Cyril J. McCauley, Esq., by Edward J. Lynch, Esq., Attorney for  
Respondent Board of Commissioners.

Harber & Freesman, Esqs., by Samuel Harber, Esq., Attorneys for  
Respondent Caputo's Liquor Corp.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Board of Commissioners (hereinafter Commissioners) whereby it granted a person-to-person and place-to-place transfer of plenary retail distribution license D-10 from Fred Montena to Caputo's Liquor Corp. and from premises 379 Mountain Road to premises 2815 Bergenline Avenue, Union City.

"Four of the five members of the Board (one being absent from the meeting) voted to grant the application for transfer.

"Appellant alleges in its petition of appeal that the action of the Commissioners was erroneous for the following reasons:

- 'a. The premises 2815 Bergenline Avenue, Union City, are within 200 feet of the Salvation Door of Pentacostle (sic) Church of God, located at 2805 Bergenline Avenue, Union City, and the respondent City of Union City, lacked authority to grant such application under R.S. 33:1-76 which provides that "no license shall be issued for the sale of alcoholic beverages within 200 feet of any Church - - ."
- 'b. Public need, necessity or convenience does not warrant the transfer of said license to the premises in question.
- 'c. No deficiency or lack in present facilities were shown for the area to which said license was transferred.
- 'd. The transfer aggravates a present concentration of licenses now amply serving said area.

- 'e. The granting of the transfer offends the public interest and is in violation of public policy declared by the New Jersey Alcoholic Beverage Control Laws, Title 33 of the Revised Statutes as amended.
- 'f. The granting of the transfer creates a void of facilities in the area from which said license is being transferred.
- 'g. The Mayor and Council acting on behalf of the City of Union City was guilty of an abuse of discretion and a mistake of law and fact in granting the transfer of said license.
- 'h. The granting of said transfer of the license to Caputo Liquor Corp., a corporation of the State of New Jersey, for premises 2815 Bergenline Avenue, Union City, was arbitrary, capricious, unreasonable, and not based on any applicable law, fact or public policy.'

"At the hearing herein appellant contended that the respondent licensee's premises are within two hundred feet of a church and therefore the grant of the transfer to the premises to be licensed is in violation of R.S. 33:1-76 which provides, among other things, that '\*\*\* no license shall be issued for the sale of alcoholic beverages within two hundred feet of any church\*\*\*.' The Commissioners admit that the distance between both premises is less than two hundred feet but deny that those occupied by the religious organization is a church within the meaning of the Alcoholic Beverage Law.

"It appears herein that Eugenio Rivera holds a Certificate of Fellowship (marked Exhibit A-3) with the Latin American Council of the Pentecostal Church of God, Inc., is recognized as a preacher of the gospel in good standing, and is acting as pastor with and by consent of the executive presbytery. Eugenio Rivera testified that in the capacity aforementioned he conducts religious services at the Salvation Door Pentecostal Church of God at premises 2805 Bergenline Avenue, Union City. The said Salvation Door Pentecostal Church of God was incorporated in New Jersey on January 24, 1962, and said certificate of incorporation designates the said religious institution as a church.

"Eugenio Rivera testified that during the week, with hours from 8 a.m. to 5 p.m., he is employed by a furniture company as a maintenance man, but conducts services on Saturdays, Sundays, Tuesdays and Thursdays. On Tuesdays and Thursdays the services are held in the evening from 'eight to ten, ten fifteen', those on Saturday 'eight to ten, ten thirty, Sundays we have Sunday School from one thirty to three fifteen, three thirty.' The building at 2805 Bergenline Avenue (formerly used as a store) in which services are conducted contains chairs, a platform and a pulpit, and a monthly rent of \$60 is paid for the use and occupancy thereof. The money needed for the rent is obtained from voluntary contributions of the members. Mr. Rivera further testified that the religious organization has no printed stationery, and that the letter objecting to the transfer of the license was prepared by Alfred Spinoso (hereinafter referred to) in accordance with his (Rivera's) instructions.

"Commissioner Ducate testified that he voted in favor of the transfer as it was in an area that is opposite the car-barn and 'it has improved a little bit at times. But right in that particular area we were looking for some kind of a shot in the arm to try to bring up a little more, and I don't think this would be detrimental

to the area, that is I am voicing now what was taken into consideration in regard to the Board of Commissioners.' He stated that he considered the objections entered by Sol Berger and Alfred Spinoso (both officers of corporations, respectively, each of which holds a plenary retail consumption license with the broad package privilege) as personal in nature. The only objectors appearing at the hearing before the Commissioners were members of appellant Association.

"Detective Albert Cerulli testified that he was assigned to make a check of the alleged church premises at 2805 Bergenline Avenue and, after five unsuccessful visits, he found the place open on Sunday afternoon 'at about one thirty.' His report of investigation, entered as an exhibit in evidence without objection, states, among other things, as follows:

'I did interview Mr. Eugne Rivera age 39 of 121-Vroom St. Jersey City, N.J., who is the pastor. He informed me he is conducting a Bible school at the Bergenline Ave. address, and has been there for the past 2 years. Prior to that the school was located for 2 years at 2307-Bergenline Ave. Union City. Mr. Rivera stated the religious instructions are of the Protestant Faith, and classes at the school are conducted on Sunday afternoon from 1:30 to 3:00 P.M., and on Tuesday, Wednesday and Saturday evenings from 8:00 to 10:00 P.M. His instructors include Carmella Rentas of 2309-Bergenline Ave. Union City, Angela Aparacio of 415-23rd St. Union City, and Gloria Neives (address unknown) and Mr. Rivera himself. At the present time there are about 100 members attending classes. The school is supported entirely by the voluntary contributions of its members. The monthly rent at the present time is \$60.00.'

"Alfred Spinoso testified that he is associated with a retail liquor establishment located at 2515 Bergenline Avenue and that, because of many liquor outlets in the area of the proposed premises, he is of the opinion that no need exists for or convenience will be served by another liquor establishment in the said area.

"It was stipulated by the attorneys for the respective parties that if Sol Berger (secretary of United Wine and Liquor Stores, Inc., located at 2913 Bergenline Avenue) were called as a witness, his testimony would be similar to that of Spinoso.

"The term 'church' as used in the Alcoholic Beverage Law has been definitely established in the early days of this Division to mean a recognized edifice devoted permanently to the worship of God. Parisi v. Jersey City et al., Bulletin 1201, Item 1.

"In Manning v. Trenton, Bulletin 247, Item 1, the late Commissioner Burnett stated:

'The word "church" may designate either a religious congregation or an edifice of worship, according to the context. See Trustees, etc. vs. Fisher, 18 N.J.L. 254, 257 (Sup. Ct. 1841); Newark Athletic Club vs. Board of Adjustment, 7 N.J. Misc. 55, 59 (Sup. Ct. 1929). As used in the Alcoholic Beverage Control Act, it means a 'recognized edifice devoted permanently to the worship of God'. Bulletin 5, Item 3. That an edifice is what is meant appears from the fact that the yardstick in the statute

is a distance of 200 feet, to be measured between "the nearest entrance of said church" and "the nearest entrance of the premises sought to be licensed." Hence, being a religious body is not of itself sufficient to invoke the benefit of the statute. Cf. George vs. Board of Excise, 73 N.J.L. 366 (Sup. Ct. 1906) aff'd. 74 N.J.L. 816 (E.& A. 1907), where the Court said: "The Legislature clearly did not intend that wherever religiously inclined persons meet together for Bible study and the like, a church existed within the meaning of this excise regulation". The mere fact, therefore, that a religious organization calls itself a "church" does not make it a church within the meaning of Section 76 of the Control Act, R.S. 33:1-76.'

"In Quality House Wine & Liquor, Inc. v. New Brunswick, Bulletin 249, Item 4, a brick building in which church services were conducted in one of three stores on the ground floor, and which was also occupied above by six tenants, was held not to be a church within the meaning of the statute.

"In Ritter v. Jersey City District Missionary Society, 105 N.J. Eq. 122 (Ch. 1929), wherein a question involved construction of restrictive covenants relating to the use of lands and whether or not the erection of a church upon the lands would constitute a violation of such covenants, Vice Chancellor Fallon, citing 11 C.J. 763, said:

'\*\*\*A church is a place where persons regularly assemble for worship.'

"I am satisfied that, although religious services may at various times be conducted at 2805 Bergenline Avenue, the structure cannot be considered a church within the meaning of the Alcoholic Beverage Law.

"The number of licenses which shall be granted in a business district is peculiarly within the discretion of the issuing authority. Alberts et al. v. Roselle et al., Bulletin 465, Item 6. I have considered the various other grounds set forth by appellant in its petition of appeal but find them of insufficient merit in this matter. There has been no indication that the Commissioners were in any way improperly motivated, and their action in granting the transfer was based on the fact that they were satisfied that the transfer of the license would inure to the benefit of, rather than be detrimental to, the proposed area. The burden of proof to establish that the Commissioners were in error is upon the appellant herein. Rule 6 of State Regulation No. 15.

"Under the circumstances appearing herein, it is recommended that the action of the Commissioners be affirmed, and that the appeal filed herein be dismissed."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument thereto were filed with me by the attorney for appellant. Written answering argument was filed with me by the attorneys for respondent-licensee.

After carefully considering the testimony, exhibits, Hearer's Report, exceptions thereto and written argument filed in behalf of appellant and respondent-licensee, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I shall enter an order as recommended by the Hearer.

Accordingly, it is, on this 29th day of January 1963,

ORDERED that the action of respondent Board of Commissioners of the City of Union City be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

2. APPELLATE DECISIONS - STEFANATOS v. NEWARK.

Michael Stefanatos,	)	
Appellant,	)	
v.	)	
Municipal Board of Alcoholic Beverage Control of the City of Newark,	)	
Respondent.	)	

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
Peter A. Adams, Esq., Attorney for Appellant.  
Norman N. Schiff, Esq., by Paul E. Parker, Esq., Attorney for Respondent.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the unanimous action of respondent in denying a person-to-person and place-to-place transfer of plenary retail consumption license C-746 from Edna Zenda, t/a Zenda's Tavern, to appellant and from premises 157 Frelinghuysen Avenue to premises 185-187 Frelinghuysen Avenue, Newark.

"The petition of appeal alleges that the action of respondent was erroneous on the following grounds:

- (A) The ordinance is ambiguous and confusing.
- (B) The wording of the respondent's ordinance permits an interpretation which is so constricting as to be an unwarranted and improper usurption of power and authority which rests with the state and not with the respondent.
- (C) The action of the board was arbitrary, capricious, unjustified and unwarranted, in view of the circumstances surrounding the application and in view of the fact that no objectors appeared to the appellant's application.
- (D) The ordinance encourages and invites practices detrimental to the proper regulation of the sale and use of alcoholic beverages in the State of New Jersey in that it prohibits doing directly that which it permits doing indirectly, as a result of which its enforcement should be prohibited by the state.

- (E) The ordinance in question and the action of the respondent are unconstitutional in that they violate Section 1 of Amendment 14 of the Constitution of the United States of America and Paragraph 1 of Article 1 of the Constitution of the State of New Jersey.'

"The applicable portion of Section 3.29 of the Revised Ordinances of The City of Newark, New Jersey, 1951, as amended and supplemented reads as follows:

'Sec. 3.29. One Thousand Foot Rule.

1. (a) No plenary retail consumption license, except renewals for the same premises and transfers of licenses from person to person within the same premises, shall be granted or transfer made to other premises within a distance of one thousand feet from any other premises then covered by any other plenary retail consumption license or any plenary retail distribution license, provided, however, that the local license issuing authority may, in its discretion, grant a transfer of an existing license to the same licensee only, to other premises within six hundred feet of the premises from which the transfer is made, notwithstanding that the premises to which the license is so transferred is within one thousand feet of an existing plenary retail consumption license or plenary retail distribution license, provided, however, that such transfer shall be made in good faith and shall inure solely for the benefit of the same licensee.'

"The answer filed on behalf of respondent denied the aforesaid allegations of the appellant and contends that 'The grounds upon which the issuing authority made its decision were based upon the factual testimony before the Board from which it, in its sound discretion, concluded that the transfer should not be granted.'

"The appeal herein was heard de novo pursuant to Rule 6 of State Regulation No. 15. The transcript of the proceedings before respondent was received in evidence and, in addition thereto, the attorneys representing the respective parties presented oral argument before me as Hearer.

"The question to be initially discussed is whether Sec. 3.29 1. (a) aforementioned prohibits the person-to-person and place-to-place transfer of the license.

"It appears from the transcript of the proceedings before respondent that the distance between the present location to which the liquor license had been issued and the proposed location at 185-187 Frelinghuysen Avenue is approximately 350 feet. The proposed location is within one thousand feet of an existing plenary retail consumption license.

"In Essex County Retail Liquor Stores Association v. Newark et als., 77 N.J. Super. 70, the court construed the present amendment to Sec. 3.29 now under consideration (which was adopted November 20, 1961) that:

'\*\*\*an existing license may now be transferred to the same licensee only, and the transfer must be made in good faith and inure solely for the benefit of the same licensee'

and that the words 'same licensee' were to be given their common and popular meaning. Thus, within the exceptive provision of Sec. 3.29 1. (a), a place-to-place transfer is afforded exclusively to the 'same licensee' or, in the instant case, Edna Zenda, to make application for a bona fide transfer of the license in question within a distance of six hundred feet of the premises from which the transfer is made. Such application would be permitted notwithstanding that the proposed premises is located within one thousand feet of an existing premises where a plenary retail consumption or plenary retail distribution license exists.

"In view of Sec. 3.29 1. (a) of the ordinance, respondent had no alternative other than to deny the appellant's application for transfer.

"Inasmuch as I am satisfied that, under the circumstances, respondent's action was proper in denying the transfer based on the ordinance pertaining thereto, it will not be necessary to consider the other grounds set forth in appellant's petition of appeal.

"I recommend that the action of respondent in denying the transfer of the license to appellant for the proposed premises be affirmed, and that the appeal filed herein be dismissed."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the record herein, including the argument of the attorneys for the respective parties, the Hearer's Report and the recommendations included therein, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 30th day of January 1963,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against )  
CHIP'S BAR, INC. )  
t/a CHIP'S BAR, INC. )  
5315 Park Avenue )  
West New York, New Jersey )  
Holder of Plenary Retail Consumption License C-1, issued by the Board of Commissioners of the Town of West New York. )  
- - - - - )

CONCLUSIONS AND ORDER

Alexander A. Abramson, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"The licensee pleaded not guilty to the following charges:

- '1. On May 16 and 22, 1962, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the "numbers game"; in violation of Rule 7 of State Regulation No. 20.
- '2. On May 16 and 22, 1962, you allowed, permitted and suffered tickets and participation rights in a lottery commonly known as the "numbers game" to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20.'

"To substantiate the charges the Division produced Agents S and C who participated in the investigation of the licensed business.

"Agent S testified in detail as to what occurred on the licensed premises during the investigation, and thereafter it was stipulated by the attorneys for the parties hereto that, if Agent C were to testify, his direct testimony would corroborate the direct testimony of Agent S.

"Succinctly stated, their testimony is as follows: At about twelve o'clock noon Thursday, May 10, 1962, they visited the licensed premises and took seats at the bar to the right of a person later identified as Charles Kenney (hereafter Charlie). Carmella Cippaghila (hereafter Carmella), secretary and treasurer of the corporate licensee, was tending bar. At about 12:20 p.m. a female entered the premises, approached Charlie and told him she wanted to place fifteen cents each on Nos. 369 and 510. Charlie said 'It's too late for today; you can have it for tomorrow.' The female agreed and handed thirty cents to Charlie who noted the bets on a piece of paper. Carmella, who had witnessed the transaction, stated that she had won \$54 on No. 310 which she had placed with Charlie; that she had given him a \$4 tip, and that she had played No. 116 with him that day. The agents departed at 1:15 p.m.

"On Wednesday, May 16, 1962, the agents returned to the licensed premises and seated themselves at the bar at which were two patrons, one of whom was Charlie. Marie Nardone (hereafter Marie), daughter of Carmella and a shareholder in the corporate licensee, was tending bar and Carmella was in the kitchen. At the request of Agent S, Marie handed him a piece of paper and a ball-point pen and remained in front of the agents while Agent S wrote four number bets for fifty cents each on the paper which he handed to Charlie together with two one-dollar bills, the serial numbers of which had been previously recorded. Charlie noted the bets on a white sheet of paper with red lettering on the top, and returned the agent's bet slip. Agent S then told Marie about the bet placed with Charlie and she remarked, 'I wish you luck.' Agent C then left the premises and conferred with Agent N who had remained outside. Returning in two or three minutes, Agent C placed two number bets with Charlie, handing him two marked dollar bills. Charlie noted

the bets on the sheet of paper with the red lettering and, when Agent C told Marie that he had played Nos. 701 and 702 with Charlie, she said 'Seven is a good lead number; that is a good one.' At this point Agent N and two local police detectives entered the premises and, after they and the other agents identified themselves, Charlie, at the request of the detectives, emptied his pockets onto the bar. Among the contents were found the marked bills and the sheet of paper with red lettering on which were recorded numbers bets, including the numbers played by the agents. The detectives arrested Charlie and thereafter Marie admitted to the agents that Charlie had been accepting bets on the licensed premises. Carmella at first denied that she knew of Charlie's activities but, when Marie said 'What is the use of lying, Mom; they know everything', she admitted that Charlie accepted number bets, including one from her on which she had won \$54.

"Appearing for the licensee were Carmella Cippaghila and Marie Nardone.

"Carmella testified in substance that she, her daughter Marie, her husband John and Anthony Cippaghila are the shareholders in the corporate licensee; that at about 11:15 a.m. Wednesday, May 16, 1962, the agents entered the licensed premises and engaged her in conversation; that she told them she had won \$44 on a ticket she bought for a church affair; that at twelve noon she was in the kitchen; that the agents sat about two stools away from Charlie; that she served the agents beer and sandwiches, and that she had no further conversation with them. She further testified that on May 22 she entered the premises about 10:50 a.m. and went directly to the kitchen; that Marie was tending bar; that about fifteen minutes later she came into the barroom when she heard 'all of them talking;' that the agents asked her for a pencil and paper and wanted to know who was in the corporation and proceeded to look behind the bar and in the cash register; that the agents referred to her statement about winning \$44 and told her that she had better get a lawyer; that 301 was the number of a ticket she bought outside the Memorial High School Stadium for the ice pavilion; that she knows Charlie and calls him 'Pop'; that she didn't remember police officers coming into the place because she was in the kitchen and, when she came out, everything was over; that she had no further conversation with the agents and that she had no knowledge that Charlie was taking number bets on the premises.

"Marie testified in substance that on May 22, 1962, she entered the barroom around 11 a.m. and attended to her usual duties behind the bar; that shortly thereafter six or seven people, including the agents and Charlie, entered the premises and took seats at the bar; that, at the request of Agent S, she gave him a piece of paper and a pen; that she noticed that he wrote numbers on the paper but she didn't know what they were; that she didn't see what he did with the paper; that she didn't see either agent speak to Charlie; that she never saw Charlie accept bets or hear him converse with others respecting numbers and that Agent S told her that he believed she knew nothing about what was going on but that her mother did because she had won \$44.

"Having had the opportunity to judge the credibility of the witnesses and recognizing the sharp dispute of facts, I find with respect to Charge 1 that the testimony of the agents clearly depicts what occurred in and upon the licensed premises on the dates alleged and that, notwithstanding the exhaustive cross examination to which the agents were subjected, their testimony remained unshaken. I further find, in view of the circumstances appearing herein, that

the testimony of the witnesses for the licensee is incredible. However, I do not find any evidence to support the allegations set forth in Charge 2 so far as the sale of 'tickets' is concerned. I conclude, therefore, that the Division has established the truth of the violations alleged in Charge 1 and in Charge 2 so far as the sale of 'participation rights' is concerned by a preponderance of the believable evidence, and I recommend that the licensee be adjudged guilty of those violations.

"Since the licensee has no prior adjudicated record, I further recommend that its license be suspended for twenty-five days. Re Malinconico, Bulletin 1482, Item 5."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the record herein, including the transcript of the testimony, the exhibits and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 28th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-1, issued by the Board of Commissioners of the Town of West New York to Chip's Bar, Inc., t/a Chip's Bar, Inc., for premises 5315 Park Avenue, West New York, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 A.M. Monday, February 4, 1963, and terminating at 3:00 A.M. Friday, March 1, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ANNA PAOLINO )  
t/a AMEDEO'S INN )  
Old White Horse Pike )  
Waterford Township )  
PO Waterford Works, N.J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of Waterford Township )

-----  
Joseph A. Maressa, Esq., Attorney for Licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 20, 1962, she possessed alcoholic beverages in six bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days, effective June 2, 1958, for sale to minors.

The prior record considered, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Simmons, Bulletin 1423, Item 6.

Accordingly, it is, on this 28th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of Waterford Township to Anna Paolino, t/a Amedeo's Inn, for premises on Old White Horse Pike, Waterford Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 A.M. Monday, February 4, 1963, and terminating at 2:00 A.M. Friday, March 1, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR SIMILAR VIOLATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

SHORE WINES & LIQUORS, INC. )  
904 Main Street )  
Bradley Beach, New Jersey )

Holder of Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the Borough of Bradley Beach )

CONCLUSIONS  
AND ORDER

-----  
J. William Boyle, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 21, 1962, it sold a quantity of cans and bottles of beer and wine to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by municipal issuing authority for fifteen days, effective December 1, 1958, for similar violation.

The prior record considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Kirk, Bulletin 1449, Item 7.

Accordingly, it is, on this 29th day of January, 1963,

ORDERED that Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the Borough of Bradley Beach to Shore Wines & Liquors, Inc. for premises 904 Main Street, Bradley Beach, be and the same is hereby suspended for twenty (20) days, commencing at 9:00 A.M. Tuesday, February 5, 1963, and terminating at 9:00 A.M. Monday, February 25, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

6. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

WILLIAM J. HASSETT )  
185 Broadway )  
Bayonne, New Jersey )

Holder of Plenary Retail Consumption License C-32, issued by the Board of Commissioners of the City of Bayonne )  
----- )

CONCLUSIONS AND ORDER

Abraham Miller, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on November 29, 1962, he permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days, effective June 22, 1942, for local hours violation.

The prior dissimilar record disregarded because occurring more than five years ago, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Malinconico, Bulletin 1482, Item 5.

Accordingly, it is, on this 29th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-32, issued by the Board of Commissioners of the City of Bayonne to William J. Hassett for premises 185 Broadway, Bayonne, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 A.M. Tuesday, February 5, 1963, and terminating at 2:00 A.M. Monday, February 25, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

7. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #222 )  
In the Matter of a Petition to )  
Lift the Automatic Suspension )  
of Plenary Retail Consumption )  
License C-77, issued by the )  
Board of Commissioners of the )  
City of Passaic to )

ON PETITION  
ORDER

ANDRO RUSIN )  
t/a Rusin's Bar & Grill )  
174 Third Street )  
Passaic, N. J. )

----- )  
Petitioner, Pro se.

BY THE ACTING DIRECTOR:

It appears from the petition filed herein and the records of this Division that on January 2, 1963, the licensee-petitioner was fined \$50 and \$5 costs in the Passaic Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on December 28, 1962, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. The suspension has not been effectuated because of the pendency of this proceeding.

It further appears that the municipal issuing authority has suspended the license for two days, commencing January 28, 1963, after confessional plea to a charge in disciplinary proceedings alleging the same sale to the minor. It appearing that the suspension has been served, I shall lift the automatic suspension. Re Baumel's Liquor and Delicatessen, Inc., Bulletin 1463, Item 9.

Accordingly, it is, on this 30th day of January, 1963,

ORDERED that the statutory automatic suspension of said license C-77 be and the same is hereby lifted, effective immediately.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

8. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION FOR LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO LIFT AFTER 20 DAYS UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against )

THE KELLY HOUSE, A CORP. )  
113 - A Broadway )  
Paterson, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-207, issued by the Board of Alcoholic Beverage Control for the City of Paterson )  
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Murner & Murner, Esqs., by James J. Murner, Jr., Esq., Attorneys for Licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to the following charge:

"In your application dated June 14, 1962, filed with the Paterson Board of Alcoholic Beverage Control, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question No. 24, which asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and fact Sam Eilen, listed in your application as the owner of only 1 share (4%) of your stock, was also the real and beneficial owner of the 23 shares (92%) and the 1 share (4%) of your stock listed in your application as owned by Harold Eilen and Edward B. Johnson, respectively; said false statement being in violation of R.S. 33:1-24."

The facts are sufficiently set forth in the quoted charge.

To date no correction of the unlawful situation has been accomplished.

Absent prior record and considering the plea entered herein, the license will be suspended for the balance of its term, with leave granted to the licensee or any bona fide transferee of the license to apply for lifting of the suspension whenever the unlawful situation has been corrected but in no event sooner than twenty days from the date of commencement of the suspension herein. Cf. Re Bergen Smith Recreation, Inc., Bulletin 1498, Item 4.

Accordingly, it is, on this 31st day of January, 1963,

ORDERED that Plenary Retail Consumption License C-207 issued by the Board of Alcoholic Beverage Control for the City of Paterson to The Kelly House, A Corp., for premises 113-A Broadway,

Paterson, he and the same is hereby suspended for the balance of its term, effective 3:00 A.M. Thursday, February 7, 1963, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 3:00 A.M. Wednesday, February 27, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

9. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS AND HORSE RACE BETS) - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

VINCENT GERBINO )  
421 - 43rd Street )  
Union City, New Jersey )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Con- )  
sumption License C-188, issued )  
by the Board of Commissioners of )  
the City of Union City )

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Licensee, Pro se.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on January 12, 1963, he permitted the acceptance of horse race and numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Club "16" Corporation, Bulletin 1472, Item 10.

Accordingly, it is, on this 29th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-188, issued by the Board of Commissioners of the City of Union City to Vincent Gerbino for premises 421 - 43rd Street, Union City, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 A.M. Tuesday, February 5, 1963, and terminating at 3:00 A.M. Monday, February 25, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CRYSTAL INN, INC.  
t/a CRYSTAL INN  
Marlboro Road  
Madison Twp., PO RD 1,  
Box 235, Old Bridge, New Jersey

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) CONCLUSIONS  
) AND ORDER  
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Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Madison.

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Busch & Busch, Esqs., Attorneys for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 12-13, 1963, it sold drinks of alcoholic beverages to four minors (age 18, 19, 20 and 20), in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Cf. Re Morris, Bulletin 1447, Item 8; Re Mulhearn, Bulletin 1482, Item 10.

Accordingly, it is, on this 18th day of February 1963,

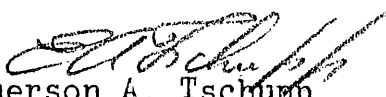
ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Madison to Crystal Inn, Inc., t/a Crystal Inn, for premises on Marlboro Road, Madison Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, February 25, 1963, and terminating at 2 a.m. Tuesday, March 12, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

Shore Point Distributing Co. Inc.  
24 Eastview Avenue, East Side and West Side Conover Place  
and Oceanport Avenue

Little Silver, N. J.  
Application filed March 15, 1963 for place-to-place transfer of State Beverage Distributor's License SBD-184 to include additional premises.

  
Emerson A. Tschupp  
Acting Director